IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODGING) NO.3022 OF 2005

Dr.Manish Mittal : Petitioner

V/s.

University of Mumbai & Anr. : Respondents

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Mr.D.V.Sutar with Mr.M.B.Gavade for the petitioner.

Mr.Rui Rodrigues for respondent no.1.

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CORAM : H.L.GOKHALE & S.R.DONGAONKAR,JJ.

DATE : MARCH 20, 2006.

P.C.

Rule, returnable forthwith.

Mr.Rodrigues waives service of rule on behalf of respondent No.1.

Heard by consent.

2. The petitioner is a student who is undergoing the course of Doctor of Medicine (D.M.) in Neurology which is a super-speciality course. The rules require him to complete three years of practical work in the allotted hospital. The petitioner was selected on 27.9.2003 and was allotted to respondent No.2 hospital. He will be completing three years by the end of September 2006. In

the meanwhile, the examination which is to be held at the end of three years is being held sometime in June 2006. This petition is filed making a submission that the petitioner would have completed his three years by June 2006 but for the fact that the admission process went on till September 2003 and he was allotted respondent No.2 hospital belatedly. It is further submitted that if the petitioner is not allowed to appear for the examination now, then he will have to appear in January 2007 and the concerned hospital may not permit him to reside in the hostel of the hospital upto September 2006.

3. Mr.Sutar, learned counsel for the petitioner, has submitted that the petitioner is prepared to give an undertaking to this Court that he will continue to work in the hospital until the end of September 2006. However, looking to these facts and circumstances, he may be permitted to appear for the examination to be held in June 2006 on the basis of an undertaking. Our attention is drawn to an unreported order passed by another Division Bench (Smt.Ranjana Desai & A.S.Oka, JJ.) in Dr.Sachin Subhashchandra Verma v. University of Mumbai & Anr. (Writ Petition (L) No.2709 of 2005) wherein an interim order was passed to the above effect on 20.12.2005.

4. An affidavit-in-reply has been filed by one

Mr.C.K.Vedpathak, Deputy Registrar of the University. Mr.Rodrigues has drawn our attention to paras 3 and 4 of the affidavit and submitted that permitting the petitioner to appear for the examination will amount to lowering the academic standards and that should not be permitted, particularly in super-speciality. We have noted this submission. However, in our view, appropriate protection will be available if the petitioner files an undertaking, as stated above. That apart, the University should not give him the Degree Certificate unless he tenders a letter from the 2nd respondent hospital that he has actually worked until the end of September, 2006.

5. Mr.Sutar states that necessary undertaking will be filed within two days in this Court and a copy thereof will be made available to the counsel for the University.

6. In view thereof, we allow this petition in terms of prayer clause (a) and permit the petitioner to appear for the examination to be held in June, 2006. We, however, make it clear that the result of the petitioner will not be declared until he completes the period of practical work with the 2nd respondent hospital until the end of September, 2006. He will have to produce a letter from the 2nd respondent addressed to the Controller of Examinations that he has completed this period of work

until the end of September, 2006 and thereafter his result will be declared in October, 2006.

7. Rule is made absolute in the above terms.

H.L. GOKHALE, J.

S.R.DONGAONKAR, J.